

Approved as Amended: June 28, 2006

**CITY OF MORGAN HILL
JOINT SPECIAL & REGULAR CITY COUNCIL
AND SPECIAL & REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – JUNE 21, 2006**

CALL TO ORDER

Mayor/Chairman Kennedy called the meeting to order at 6:05 P.M.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk/Deputy Agency Secretary Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

1.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority	Government Code 54957
Public Employee Performance Evaluation:	City Manager
Attendees:	City Council, City Manager

2.

CONFERENCE WITH LABOR NEGOTIATORS – UNREPRESENTED EMPLOYEE:

Authority:	Government Code Section 54957.6
Agency Negotiators:	Mayor Dennis Kennedy, Council Member Steve Tate
Employee:	City Manager
Closed Session Topic:	Give instructions to labor negotiators regarding City Manager's Contract

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:06 P.M.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:02 P. M.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy announced there were no reportable actions.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Mayor/Chairman Kennedy led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Parks & Recreation Commissioner Marilyn Librers with a Proclamation declaring July 2006 as Parks & Recreation Month.

She thanked the Council and announced that she had some discount tickets to Great America to give out to whoever would like to have them, and invited the audience to contact her if they would like to have some.

RECOGNITIONS

Mayor Kennedy thanked Retiring Library, Culture & Arts Commissioner Jeanne Gregg for her service to the City and the community, and presented her with an engraved clock in recognition of her contribution.

Mayor Kennedy thanked Retiring Santa Clara County Fire Chief Ben Lopes for his outstanding service to the Santa Clara County Fire Department and the City Of Morgan Hill.

Chief Lopes thanked the Council and the City of Morgan Hill for their support of the fire department.

CITY COUNCIL REPORT

Mayor Kennedy reported on his position as a member of VTA Board of Directors. He attended a meeting last Thursday where they voted on the list of priorities for the 30 year long range plan for the VTA, including allocation of Measure A funds from the measure approved in the year 2000. One of the projects on the priority list is the double tracking of Cal Train to Gilroy to allow reverse commute and service; and this also has moved up on the list.

He reported that only 80 % of the projects on the list are funded. The list contains such projects as the BART extension, which is at the top of the list; a people mover from Caltrain to the airport; improved

areas of Caltrain service; electrification of Caltrain; extension of several light rail lines; and improvement of bus transit including looking at Route 68 from Gilroy to SJ as one of the routes for this bus rapid transit. Another possible service is a community bus service with smaller busses that reach more of the local residents than the current fixed bus routes reach. He stated that he feels that Morgan Hill has achieved what they wanted in making the VTA board aware of the needs of Morgan Hill.

Mayor Kennedy also reported that the Sister Cities Committee will be adding another sister city in Mizuho, Japan, bringing the total Sister Cities for Morgan Hill to four. Our other cities are in Italy, Mexico and Ireland. These cities are similar in size and economic development areas to Morgan Hill, and have a lot in common with us. The Sister Cities program builds bridges for cultural and economic connections and is a good thing for Morgan Hill. The Mayor will be signing the Sister Cities agreement with Mizuho on July 3 at 3 p.m. at the Community & Cultural Center, and the public is invited to the reception.

Mayor Kennedy also reported that there will be a reception held at the Community Center on July 4th for the past Mayors of Morgan Hill and the Sister Cities representatives who have been invited to ride in the parade in recognition of Morgan Hill's Centennial.

CITY COUNCIL COMMITTEE REPORT

Council Member Sellers reported that the Economic Development Committee held a workshop to review the overall downtown policies with some of the areas major real estate brokers to get their perspective on the Downtown area and local housing issues. He felt that the Committee obtained some very useful input at this workshop. There will be a special meeting the first part of July to specifically discuss housing issues; and a recommendation will be brought to the Council at the 3rd meeting in July.

CITY MANAGER REPORT

City Manager Tewes provided an update on ongoing efforts to hold Olin Corporation to account for ground water basin contamination with perchlorate. Olin acknowledges the contamination, but asserts that it has not moved to the north. The City has been trying to convince the regional water control board that Morgan Hill's water has been impacted; and within the last week recent data from well testing shows that there is perchlorate in the deep aquifer and that it is moving north. The regional water control board now acknowledges this and is asking Olin to delineate how far the plume goes. He will keep the Council posted as there are further developments.

CITY ATTORNEY REPORT

City Attorney Kern had no report.

OTHER REPORTS

Council Member Tate, in his capacity as the Centennial Project Chairman, invited everyone to attend the groundbreaking ceremony of the Centennial Project to be held on June 26 at 5:00 p.m. at the historical

Morgan Hill House, Villa Mira Monte on Monterey Road. The Centennial Project is a 90-station walking tour that will demonstrate the history of Morgan Hill. Everyone is invited to attend, and bring their own shovel to participate in the groundbreaking ceremony.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment on items not appearing on this evening's agenda.

Jennifer Tate, speaking as the Chairwoman of the Centennial Committee, also extended an invitation to the Council to attend the groundbreaking ceremony for the historic walking trail on June 26. The expected completion date for the project will be August 5. She stated that she is very pleased that there has been a lot of civic involvement through the many local civic organizations that have participated in the creation of this project.

John Amos addressed the Council to notify them and the public of an upcoming event of the CDF Volunteers "Communication Field Day". This is a training and skills demonstration event, held annually, for amateur radio operators that volunteer during a disaster situation. This event will be held June 24 and June 25. The Council was also invited to attend the barbeque they will hold on Saturday evening. Mr. Amos also reported that they will hold another event on July 4 for mobile radio patrols.

Richard Palmisaro strongly recommend Council consideration of the operation of Morgan Hill public facilities by private business enterprises who might be interested in leasing the buildings and paying the city for this. He feels that the Recreation Center, the sports complex, and the aquatics center would all benefit from this type of operation plan; and it would eliminate the need to hire additional employees to run these facilities. He volunteered to assist with the development of this idea. He also stated he was concerned about the expenditure of \$70K for the continued Community Conversation.

No further comments were offered. Mayor Kennedy closed public comment.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

No changes were made to the agenda order.

City Council Action

CONSENT CALENDAR:

Items 2, 8, and 12 were pulled for discussion.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1, 3 to 7, 10, 11, and 13, as follows:*

1. **CENTENNIAL RECREATION CENTER PROJECT – MAY CONSTRUCTION PROGRESS REPORT**

Action: ***Information** only.*

2. **NEW LIBRARY PROJECT –MAY CONSTRUCTION PROGRESS REPORT**

Action: ***Information** only.*

Council Member Tate stated that he would like staff to clarify for the public where the information in these construction progress reports is obtained.

Glenn Ritter, project manager, reported that TBI Construction prepares the reports for staff review before they are submitted to the Council. The public can access the information from the City's website and at TBI.com. The live webcam can be accessed from either website, and the staff report can be reviewed there without having to go to the Council agenda packet.

3. **RECOMMENDATION FROM UTILITIES AND ENVIRONMENT COMMITTEE TO OPPOSE AB 2987**

Action: ***Directed** Staff to Draft a Letter of Opposition to AB 2987 for the Mayor's Signature.*

4. **APPROVAL OF IMPROVEMENT AGREEMENT WITH TRADER JOE'S (APN 726-43-006)**

Action: ***Authorized** the City Manager to Sign an Improvement Agreement with Trader Joe's on behalf of the City, Subject to Review and Approval by the City Attorney.*

5. **FIFTH AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**

Action: ***Authorized** the City Manager to Execute a Fifth Amendment to Agreement with the Law Firm of Hatch & Parent; Subject to Review and Approval by the City Attorney.*

6. **APPROVE ONE YEAR EXTENSIONS FOR VARIOUS PUBLIC WORKS MAINTENANCE AGREEMENTS**

Action: *1) **Approved** the Option to Extend Current Public Works Maintenance Agreements for One Year Each for a) Striping and Signing, b) Traffic Signal Maintenance, and c) Tree Pruning; and 2) **Authorized** the City Manager to Execute the Agreement Extensions on Behalf of the City; Subject to Review and Approval by the City Attorney.*

7. **ACCEPT BOY'S RANCH RESERVOIR #3 PROJECT**

Action: *1) **Accepted** as Complete the Boy's Ranch Reservoir #3 Construction Project in the Final Amount of \$1,615,595.00; 2) **Directed** the City Clerk to File the Notice of Completion with*

*the County Recorder's Office; and 3) **Authorized** the Additional Appropriation of \$150,000 from the Funds 61 and 653.*

8. ALTERNATIVE DISPATCH STUDY

Council Member Grzan asked that this item be tabled to another meeting so that he could do some research on this issue.

Mayor Kennedy asked for public comment.

Mr. Palmisaro stated that he wants to see the Police Department (PD) enhanced, and he feels this study does not do them justice. He feels it contains little if any factual budget quotes; and uses facts from 1995 that are over a decade old with some of the statements being far reaching. The study did not do the PD justice on their role in a SWAT situation. He would like to have these details reviewed in the final version.

Council Member Tate responded that this report was prepared by the Public Safety and Community Services Committee, and they were asked to look into whether it was worthwhile to spend resources to study alternatives to the current dispatch system. Police Chief Cumming did not do quantification studies, but explained what they do as dispatchers and what they do in addition to dispatching as part of the PD staff, such as booking female prisoners to fulfill the requirements of state law.

The Committee reviewed Chief Cumming's report, and compared Morgan Hill with using the only viable alternative which is the County Communications Center. They found the level of service and the quality of service were already superior in both the dispatch and non-dispatch duties being performed. In addition, the City would have to pay for someone to do the non-dispatch duties so the Committee used the 1995 figure of \$400K rather than do another study at today's dollars. The total of \$1.1 million is exactly what the city budgets today. The conclusion is that a change would not provide the quality of services currently being provided; and it would not be worth expending the funds to do a more detailed study at this time.

Council Member Carr added that the work the Committee did included conversations with the Chief and meetings with the dispatchers to learn about their jobs. They compared Morgan Hill to Gilroy and the County and found no appreciable savings to be gained in salaries. The Committee's decision was that a formal review was not warranted. He noted that this was a study of dispatch services only and not other PD services.

Council Member Grzan stated his desire to have this item tabled to allow him time to meet with the City Manager and the Police Chief.

Council Member Sellers asked that Council Member Grzan coordinate his research to include Mr. Palmisaro's concerns in order to make sure that the concerns of the public are addressed on this issue.

Council Member Tate stated that he supports Council Member Grzan taking a tour of the Dispatch Center so he can see the operation for himself.

Council Member Carr stated that he wants to make sure that staff will not be asked to do any more work on this issue. Council Member Grzan reassured him that he is only investigating this for his own information.

Action: *On a Motion by Council Member Grzan, Seconded by Mayor Kennedy, this item was **Tabled.***

9. **AUTHORIZATION TO EXTEND ARCHITECTURAL CONSULTANT AGREEMENT FOR THE NEW MORGAN HILL LIBRARY**

Action: **Authorized** the City Manager to Amend Noll & Tam's Consultant Agreement Extending the Term until August 31, 2007.

10. **EXTENSION OF FIRE SERVICES CONTRACT**

Action: **Authorized** the City Manager to Execute an Amendment to the Fire Services Contract with the Santa Clara County Fire District to Extend Services Through September 30, 2009.

11. **APPROVAL OF RESOLUTION PROVIDING COMPENSATION FOR CITY OF MORGAN HILL MANAGEMENT AND CONFIDENTIAL EMPLOYEES**

Action: **Adopted** Management Resolution.

12. **ADOPT ORDINANCE NO. 1780, NEW SERIES**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1780, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING TITLE I, CHAPTER 2, SECTIONS 2.04.020 AND 2.04.030 OF THE MORGAN HILL MUNICIPAL CODE TO ADJUST THE SALARIES OF COUNCIL MEMBERS AND THE MAYOR.**

Mayor Kennedy asked for clarification of wording, before Council approved this item as is.

13. **APPROVE JOINT CITY COUNCIL REGULAR AND REDEVELOPMENT AGENCY REGULAR MEETING MINUTES FOR JUNE 7, 2006**

Action: **Approved** as Submitted.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 14, as follows:*

14. ADOPTION OF SOUTH COUNTY REGIONAL WASTEWATER (SCRWA) AUTHORITY FISCAL YEAR 2006-2007 BUDGET

Action: **Approved** the Fiscal Year 2006-2007 SCRWA Budget.

City Council and Redevelopment Agency Action

OTHER BUSINESS:

15. ADOPTION OF FISCAL YEAR 2006-2007 OPERATING AND CAPITAL IMPROVEMENT BUDGET

Director of Finance Dilles presented the staff report as provided in the agenda packet.

Mayor/Chairman Kennedy opened the public comment.

Richard Palmisaro challenged the Council to remove \$760K from the budget to bring it back down to where revenues equal expenditures. He suggested that monies used for the land banking for projects is costing the city money because it removes land from the tax rolls and from the potential to generate income to the city. He suggested looking at these projects and releasing some of the land into the public domain; and stated he feels the city needs to be more careful of why and how they land bank.

Mr. Palmisaro also questioned the need to continue the Community Conversation. He stated that he felt the only options offered to him when he attended these meetings was to either cut police or raise taxes. Now the city will be spending another \$70K to continue this, and he feels that this money would be better used elsewhere, such as the creation of a permanent BMX skate park. This project needs \$85K to build it, and this \$70K being spent on the continuing Community Conversation could be used to fund this project instead. He also suggested that saving could be realized if the city reduced its use of consultants.

Chamber of Commerce President Dan Ehrler commented in support of the direction the City is going. He feels that the Community Conversation was a very valuable tool and should be continued. This type of dialogue is needed and the returns are beneficial to the community, but the city needs to make the investment to make it happen. He stated that Chamber of Commerce is excited about continuing the partnership with the city and working toward a productive year; and that this budget sets that direction.

Brian Sullivan stated that he had hosted 8 of the Community Conversation meetings, and agrees that we need to get the community more involved in the process. He had personally invited all of his neighbors, but none had attended. He feels that a way needs to be found to get more involvement from the community so they understand the issues and can be made aware of their impact on decision making.

No further comments being offered, the public comment was closed.

City Manager Tewes responded to Mr. Palmisaro's comments, stating that the budget deficit is much less than anticipated. The city has been able to handle this because of the previously adopted financial policies. Contact with the community led to the current financial strategy, and can be very beneficial in leading to quality decisions by the Council on an on-going basis.

In regard to the land banking question, he wanted to make the point that the City Attorney would advise that such a practice would not be legal for the Redevelopment Agency. There are projects that require acquisition of land, such as parks in the anticipation of population growth. The source of the acquisition funds is not the General Fund, where the deficit exists, but impact fees paid by new developments. Flood control retention basins for storm water are also paid by new development.

Council Member Sellers stated his appreciation for the public input tonight. He wants to continue the Community Conversation, and perhaps broaden the discussion to bring more information to the Council through encouraging a deeper level of discussion. His experience is that the Community Conversation effects were felt throughout the community, and provided feedback that was helpful to the process.

He further stated that in budget planning it is not probable that the budget will result in exact revenues matching exact expenditures. The goal is to have a narrow gap between reserves spent, and reserves held for the future; and to have a long term plan to keep that under control.

Council Member Tate stated that the council has adopted a five-year strategy for the budget and has kept on the path set by that strategy. The city is in a good position because of surplus from several years ago; and the reserves are being used to maintain steady service levels. The Community Conversation was one of the means the council chose to communicate with the community. He feels that the 300 who did participate was a good turnout for this type of thing, and did provide some very good input. He feels it was good, can be better, and the council is already committed to doing another workshop to develop the upcoming outreach and make it even better. He stated his disappointment in the negative presentation of the process in the local newspaper. There were assertions made that no one got anything out of the process, even though the statistics gathered showed that 70% felt it was useful. They have been quick to criticize, but have not participated in a process that has been working.

Council Member Grzan voiced his support for the Community Conversation process, and stated that those who attended found it beneficial. He believes in a participatory form of government, and wants the community to have an opportunity to provide their input. He noted that the Times did not attend the Budget Hearings when they were held, and have found it easy to criticize without taking the opportunity to talk with the council members. He recently wrote a letter to the Editor, which was not published; and when he inquired as to why, he was told it was too long. He is concerned about the portrayal of the city in the Times.

Council Member Carr thanked the city staff for their work on the budget, and stated that he feels it is a prudent and sound budget that follows adopted policies of the Council. He stated that the city is fortunate to have reserves that allow us to provide services that residents want and deserve while

working to balance the budget. He is also looking forward to continuing the Community Conversation, and moving from the first stage of talking about budget to a discussion about levels of service and expectations regarding services.

Mayor Kennedy agreed with the comments of other council members. At the Capstone event he heard loud and clear that the process is not finished. The Council needs to know what the community wants and what they are willing to pay for, and that still needs to be done. He noted that the budget document contains a chart comparing tax revenues of various cities, and that Morgan Hill is one of the lowest in tax revenues, which is primarily what brings revenue to the General Fund. Morgan Hill is a very frugal city, and is operating at reduced levels of services. Reduced services is not really what the community wants. As the city continues to grow, the budget does not accommodate for the additional services that will be needed; and the course we are currently following will require additional cuts. The community needs to be asked if this is what they want. The continuation of the Community Conversation will give this information to the Council.

City Council Action:

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Resolution Adopting the Fiscal Year 2006-2007 Operating and CIP Budget and Adopting Appropriations Limit for Fiscal Year 2006-2007.*

Redevelopment Agency Action:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Tate, the City Council/Agency Board unanimously (5-0) **Approved** the Resolution of the Redevelopment Agency of Morgan Hill Adopting the Fiscal Year 2006-2007 Agency Budget.*

City Council Action:

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Five-Year Capital Improvement Plan.*

City Council Action

OTHER BUSINESS:

16. REQUEST FOR CITY COUNCIL SPONSORSHIP OF A “FORMER MAYORS” AND “SISTER CITIES” FOURTH OF JULY RECEPTION

Mayor Kennedy presented the staff report as provided in the agenda packet. He stated that he has met with staff and has significantly reduced the amount being requested for this event. He is personally

working on obtaining donations of food that will reduce the costs further. He believes this is a good event and asked for the council support.

Council Member Tate stated that he is not supporting this event, as he cannot sanction public funds being used for a private party; and since this is an invitation only event, he feels that makes it a private event.

Council Member Sellers stated that he agreed with Mr. Tate, and that it was not the amount of money that was the issue. He does not want to set a precedent. He feels that they should personally support the event to honor past mayors, and challenged his colleagues to help raise the money to bridge the remaining funding gap.

Council Member Grzan asked if there was a way to make the event public, and Mayor Kennedy responded that to do so would increase the costs and probably require a different location, so it was not feasible.

Council Member Carr asked if this was an event being put on by the Centennial Committee or the Sister Cities Committee. Mayor Kennedy responded that IDI had invited the past mayors and the sister cities delegates to participate in the 4th of July Parade. He suggested a reception so they would have a place to go after the parade, and he presented this to the Centennial Committee. They have all been working on raising the funds for the event, but there is a limited amount of funding available.

Council Member Grzan remarked that he thought the council had previously sponsored funds for a meal for the sister cities.

Mayor Kennedy responded that yes, the official delegation from one of the sister cities did have one meal sponsored by the council.

Council Member Sellers stated that the amount is not the issue. He did recall that funds were given to the sister cities organization, and the council has been getting a lot more requests in the last year from individual organizations. This is starting to have an impact, and he is concerned about the city continuing down that path. He feels this is a good event to hold and since the amount is small the funds can probably be raised from private sources.

Council Member Carr agreed with the other council members. The Committee that he and Council Member Tate serve on has been asked to look the types of groups the council is being asked to sponsor with funding. He feels that anything that taxpayers are being asked to fund should be open to public attendance. He agrees that the council can assist in coming up with private funding so that a precedent is not set tonight of funding events not open to the general public.

In response to the council's concerns, Mayor Kennedy withdrew his request for sponsorship of this event, and will meet privately with the other council members to enlist their support in raising the needed funds.

Action: *After Council discussion, Mayor Kennedy **Withdrew** his Request to Sponsor the “Former Mayors” and “Sister Cities” Fourth of July Reception.*

17. RULES FOR SCHEDULING WORKSHOPS AND CLOSED SESSIONS

City Manager Tewes presented the staff report as provided in the agenda packet. He requested clarification from the council on scheduling of workshops and closed sessions.

Council Member Sellers stated his personal preference is to start meetings at 7:00 P.M. and hold the closed sessions after the open session meeting ends; but after further thought he feels we should stick with the current policy outlined in Section 5.1.E, and as a rule start closed sessions at 6:00 P.M. He feels that it makes sense to follow the current policy and hold workshops on the first week of the month. He feels that we should stick with the current stated policy.

Council Member Tate stated that holding closed sessions after a long open meeting is not effective. He would like to see the most efficient use of time, which requires some flexibility in scheduling. He prefers that closed sessions start at 6:00 P.M. He also noted that there used to be a policy of no closed sessions being scheduled for the last meeting of the month.

Council Member Carr concurred that 6:00 P.M. is the preferred start time for closed sessions.

Council Member Sellers clarified for staff that the existing policy should be continued without changes.

City Manager Tewes asked for direction on the conflict next week with the Financial Policy Committee meeting scheduled for 6:00 P.M. since there are closed sessions scheduled.

Council Member Grzan said that he would reschedule the Financial Policy Committee meeting next week so that closed sessions could be held at 6:00 P.M.

Action: *Council consensus **Directed** staff not to amend Council Policy CP-97-01.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 8:26 P.M.

MINUTES RECORDED AND PREPARED BY:

MOIRA MALONE, DEPUTY CITY CLERK/DEPUTY AGENCY SECRETARY